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Attorneys for Defendants
NATHANIEL BIGGER and
CHRISTINE UNDERHILL, f/k/a CHRISTINE HUDACKO

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

EDWARD ALLYN HUDACKO,

Plaintiff,

v.

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA, *et al.*,

Defendants.

Case No. 3:23-cv-05316-SI

**SUPPLEMENT TO DEFENDANTS'
JOINT STATEMENT REGARDING
STATUS AND OUTCOME OF FEBRUARY
2, 2024 CONTRA COSTA COUNTY
SUPERIOR COURT CONTEMPT
PROCEEDING**


Attached hereto are the Minute Orders and hearing transcript for the February 2, 2024, hearing in the case captioned *Christine Hudacko v. Edward Hudacko* pending in the Superior Court of California, Contra Costa County as Case No. MSC19-05641.

oo0oo

Respectfully submitted,

CONSUMER LAW CENTER, INC.

Dated: February 13, 2024

By: 

☐ Fred W. Schwinn (SBN 225575)

☐ Raeon R. Roulston (SBN 255622)

☐ Matthew C. Salmonsén (SBN 302854)

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CHRISTINE UNDERHILL

Superior Court of California, Contra Costa County

Department 16
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

MINUTE ORDER

CHRISTINE HUDACKO VS EDWARD HUDACKO

MSD19-05641

HEARING DATE: 02/02/2024

PROCEEDINGS: FAMILY LAW ORDER TO SHOW CAUSE IN RE: RE: INJUNCTIVE ORDER RE GENDER SURGERY FILED BY EDWARD HUDACKO ON 9.29.23, CITEE CHRISTINE HUDACKO

DEPARTMENT 16

JUDICIAL OFFICER: BENJAMIN T REYES, II

CLERK: DANYELLE BIANUCCI

COURT REPORTER: KENDRA MORALES, CSR 7259

BAILIFF: CHRISTOPHER BOUTTE

JOURNAL ENTRIES:

IN-PERSON HEARING

CITEE/PETITIONER CHRISTINE HUDACKO APPEARS WITH ATTORNEY ERNEST BAELO

CITEE NATHANIEL BIGGER APPEARS WITH ATTORNEY PAUL NATHAN

CITEE DANIEL HARKINS APPEARS WITH ATTORNEY MICHAEL SMITH

RESPONDENT EDWARD HUDACKO APPEARS WITH ATTORNEY TRACEY HENDERSON

Parties sworn.

Three matters set for calendar on Order to Show Cause Regarding Contempt motions filed by Edward Hudacko on 9/29/2023.

Off the record administrative housekeeping.

Parties and counsel have met and conferred, reached no agreements at this time.

The Court reviews filing events including Responses and Oppositions by the Parties. Not all documents have been fully reviewed and continuance is requested.

Attorney Henderson makes an informal inquiry regarding the Court's ability to be fair and impartial.

Attorney Henderson confirms she is not making a formal CCP 170.1 motion at this time.

CCP 170.3(b)(1) is brought up by the Court. The Court believes it can be fair and impartial in this matter. The Court hears no objections from Parties or Counsel.

The Court confirms the Motion for Reconsideration hearing previously set for 2/13/2024 at 8:30am, Parties may appear via ZOOM.

The Court confirms the Motion to Discharge Order to Show Cause hearing previously set for 3/01/2024 at 1:30 pm.

Today's three matters are continued to the same date and time of 3/01/2024 at 1:30pm. Parties may appear via ZOOM or in-person for this hearing. Attorney Nathan requests PC 977 to appear on behalf of client Citee Bigger. Court grants request.

Parties and Counsel shall file any supplemental briefings no later than 10 court days prior to the hearing and any replies must be filed no later than 5 court days prior to the hearing.

Citees Christine Hudacko, Nathaniel Bigger, and Daniel Harkins are ordered to appear.

DATED: 2/9/2024

BY: _____

D. BIANUCCI, DEPUTY CLERK

Superior Court of California, Contra Costa County

Department 16
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

| MINUTE ORDER | |
|---|--|
| CHRISTINE HUDACKO VS EDWARD HUDACKO | MSD19-05641 |
| HEARING DATE: 02/02/2024 | |
| PROCEEDINGS: FAMILY LAW ORDER TO SHOW CAUSE IN RE: RE: INJUNCTIVE ORDER RE GENDER SURGERY FILED BY EDWARD HUDACKO ON 9.29.23, CITEE NATHANIEL BIGGER | |
| DEPARTMENT 16 JUDICIAL OFFICER: BENJAMIN T REYES, II | CLERK: DANYELLE BIANUCCI COURT REPORTER: KENDRA MORALES, CSR 7259 BAILIFF: CHRISTOPHER BOUTTE |
| <u>JOURNAL ENTRIES:</u> IN-PERSON HEARING CITEE/PETITIONER CHRISTINE HUDACKO APPEARS WITH ATTORNEY ERNEST BAELO CITEE NATHANIEL BIGGER APPEARS WITH ATTORNEY PAUL NATHAN CITEE DANIEL HARKINS APPEARS WITH ATTORNEY MICHAEL SMITH RESPONDENT EDWARD HUDACKO APPEARS WITH ATTORNEY TRACEY HENDERSON Parties sworn. Three matters set for calendar on Order to Show Cause Regarding Contempt motions filed by Edward Hudacko on 9/29/2023. Off the record administrative housekeeping. Parties and counsel have met and conferred, reached no agreements at this time. The Court reviews filing events including Responses and Oppositions by the Parties. Not all documents have been fully reviewed and continuance is requested. Attorney Henderson makes an informal inquiry regarding the Court's ability to be fair and impartial. Attorney Henderson confirms she is not making a formal CCP 170.1 motion at this time. CCP 170.3(b)(1) is brought up by the Court. The Court believes it can be fair and impartial in this matter. The Court hears no objections from Parties or Counsel. The Court confirms the Motion for Reconsideration hearing previously set for 2/13/2024 at 8:30am, Parties may appear via ZOOM. The Court confirms the Motion to Discharge Order to Show Cause hearing previously set for 3/01/2024 at 1:30 pm. Today's three matters are continued to the same date and time of 3/01/2024 at 1:30pm. Parties may appear via ZOOM or in-person for this hearing. Attorney Nathan requests PC 977 to appear on behalf of client Citee Bigger. Court grants request. Parties and Counsel shall file any supplemental briefings no later than 10 court days prior to the hearing and any replies must be filed no later than 5 court days prior to the hearing. Citees Christine Hudacko, Nathaniel Bigger, and Daniel Harkins are ordered to appear. | |

DATED: 2/9/2024

BY: _____

D. BIANUCCI, DEPUTY CLERK

Superior Court of California, Contra Costa County

Department 16
925-608-1000
www.cc-courts.org



K. Bieker
Court Executive Officer

MINUTE ORDER

CHRISTINE HUDACKO VS EDWARD HUDACKO

MSD19-05641

HEARING DATE: 02/02/2024

PROCEEDINGS: FAMILY LAW ORDER TO SHOW CAUSE IN RE: RE: INJUNCTIVE ORDER RE GENDER
SURGERY FILED BY EDWARD HUDACKO ON 9.23.23, CITEE DANIEL HARKINS

DEPARTMENT 16

CLERK: DANYELLE BIANUCCI

JUDICIAL OFFICER: BENJAMIN T REYES, II

COURT REPORTER: KENDRA MORALES, CSR 7259

BAILIFF: CHRISTOPHER BOUTTE

JOURNAL ENTRIES:

IN-PERSON HEARING

CITEE/PETITIONER CHRISTINE HUDACKO APPEARS WITH ATTORNEY ERNEST BAELO

CITEE NATHANIEL BIGGER APPEARS WITH ATTORNEY PAUL NATHAN

CITEE DANIEL HARKINS APPEARS WITH ATTORNEY MICHAEL SMITH

RESPONDENT EDWARD HUDACKO APPEARS WITH ATTORNEY TRACEY HENDERSON

Parties sworn.

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Attorney Henderson confirms she is not making a formal CCP 170.1 motion at this time.

CCP 170.3(b)(1) is brought up by the Court. The Court believes it can be fair and impartial in this matter. The Court hears no objections from Parties or Counsel.

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Citees Christine Hudacko, Nathaniel Bigger, and Daniel Harkins are ordered to appear.

DATED: 2/9/2024

BY: _____

D. BIANUCCI, DEPUTY CLERK

1 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 IN AND FOR THE COUNTY OF CONTRA COSTA
3 HONORABLE **ENJAMIN T. REYES, II**, JUDGE, PRESIDING
4 DEPARTMENT 16
5

6 **CHRISTINE HUDACKO,**)
7 Petitioners,)
8 vs.) No. **MSD19-05641**
9 **EDWARD HUDACKO,**)
10 Respondent.)
11 _____)
12

13 **REPORTER'S TRANSCRIPT OF PROCEEDINGS**

14 **FEBRUARY 2, 2024**

15 COURTHOUSE, MARTINEZ, CALIFORNIA
16

17
18 ORDER TO SHOW CAUSE AND AFFIDAVIT
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27 Reported by: KENDRA MORALES, CSR 7259
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A P P E A R A N C E S

For CHRISTIE HUDACKO:

BY: NATHAN BIGGER

Attorney at La

For EDWARD ALLYN HUDACKO:

BY: TRACY HENDERSON

Attorney at Law

For CHISTINE HUDACKO (on a limited scope):

BY: ERNEST BAELO

Attorney at Law

For ERNEST BAELO:

BY: PAUL NATHAN

Attorney at Law

For MICHAEL SMITH:

BY: DANIEL HARKINS

Attorney at Law

1 FEBRUARY 2, 2024

2 P R O C E E D I N G S

3 ---o0o---

4 THE COURT: We are on the record in the matter of
5 Petitioner Christine Hudacko and Respondent Edward Hudacko,
6 which is MSD19-05461.

7 The Court is convening today on three matters, and they
8 all relate to an Order to Show Cause and Affidavit for
9 Contempt which was filed by Mr. Hudacko against, number one,
10 Christine Hudacko; and, number two, Ms. Nathaniel Bigger who
11 was counsel of record for Mr. -- for Ms. Hudacko, and number
12 three, against Daniel Harkins who is minor's counsel.

13 We -- the matter was set for an arraignment and hearing
14 today, and I do understand, from reviewing the records, that
15 all parties have prepared either an objection, a demurrer,
16 or some type of motion to discharge the contempt citation
17 that was filed by Mr. Hudacko.

18 I'm going to ask all counsel to state their appearances
19 for the record.

20 Let's start with the moving party first.

21 MS. HENDERSON: Good afternoon, your Honor.

22 Tracy Henderson appearing for Edward Hudacko,
23 Respondent, on a limited scope basis for the purposes only
24 of this contempt matter.

25 THE COURT: Okay. Thank you.

26 And let's go with Ms. Hudacko's counsel and
27 Ms. Hudacko, please.

28 MR. BAELO: Good afternoon, your Honor.

1 Ernest Baello, Attorney for Christine Hudacko on a
2 limited scope basis, who is present in court, your Honor.

3 THE COURT: Thank you.

4 Next, counsel for Mr. Bigger.

5 MR. NATHAN: Good afternoon, your Honor.

6 Paul Nathan for Nathaniel Bigger who is present and in
7 court.

8 THE COURT: Okay. Thank you.

9 And for Mr. Harkins.

10 MR. SMITH: Good afternoon, your Honor. Michael Smith
11 for Daniel Harkins, who is also present in court.

12 THE COURT: Okay. Thank you.

13 The record will reflect that all parties were sworn in.

14 This afternoon the Court has reviewed the Order to Show
15 Cause and Affidavit for Contempt, all three of them filed by
16 Mr. Hudacko.

17 The Court has started to review, but has not reviewed
18 completely all of the Oppositions, the Demurrers, the
19 Motions to Discharge the Contempt Citation that has been
20 filed by the three parties, and the Court has started to
21 review, but it is not finished reviewing the Oppositions
22 that were filed by Ms. Henderson on January 29th, 2024.

23 Prior to the hearing, off the record, the Court had
24 provided the parties with two options to proceed today.

25 I can either continue this hearing to a future date so
26 the Court, number one, will have an opportunity to review
27 all of the Briefings that were submitted to the Court, and
28 have their arguments elicited after which I would take it

1 under submission, or I can waive the irregularity in
2 service. I do understand that Ms. Henderson has objected,
3 or at least stated off the record that CCP 1005 was not
4 complied with.

5 And if the parties waive irregularity, I can hear
6 arguments today, take this matter under submission, and
7 either rule on the demurrers or objections or motions to
8 discharge.

9 If I grant in part or -- excuse me. If I sustain in
10 part or sustain in general, I will let the parties know
11 through written ruling.

12 If I overrule, I will set this matter for an
13 arraignment.

14 The other option is to continue this hearing. And so
15 the parties have just briefly tried to meet and confer, and
16 I don't believe there is any consensus.

17 Why don't we start with you, Ms. Henderson?

18 MS. HENDERSON: Thank you, your Honor.

19 I do have an initial matter that I need to raise with
20 the Court.

21 As you know, I have never appeared before your Honor,
22 and I have been hired to do a job, and part of that job is
23 to zealously represent my client.

24 So I need to respectfully ask that this Court consider
25 whether or not it could be fair in this matter.

26 And the basis for that request is that you have used
27 your pronouns at the beginning of the matter, and pursuant
28 to Federal Court case *Mirabelli v. Olson*, which is 2023 U.S.

1 District Lexus No. 163880, the Federal Court judge has found
2 that a request to change name and pronouns may be the first
3 visible sign -- in this case it was a child or adolescent --
4 so it says that the child or adolescent may be dealing with
5 gender dysphoria or related coexisting mental health issues.

6 And, again, with the utmost respect, your Honor,
7 because this case, the factual basis and the issues in the
8 case have to do with transitioning -- socially transitioning
9 gender identity issues, the use of pronouns respectfully
10 could be construed as an appearance of bias.

11 So, again, I'm not asking the Court to recuse itself; I
12 am just asking the Court to consider that before moving
13 forward.

14 THE COURT: Okay. I do understand your request. But
15 you are not officially requesting that I disqualify myself
16 pursuant to California Code of Civil Procedure 170.1?

17 MS. HENDERSON: Not if it is clear, your Honor. I am
18 making an informal inquiry as to whether or not you believe,
19 based on statements that I have just made, that you can be
20 fair and impartial, because, again, I don't know if
21 your Honor is socially transitioning. According to Federal
22 law, those are the steps of socially transitioning, and
23 that's the issue in this case, and it would appear that
24 based on that, there is an appearance of bias, respectfully,
25 judge.

26 THE COURT: No. I appreciate it. I don't take any
27 disrespect by your request that I consider this. And I do
28 know the issues in this case. I have been involved in this

1 case and know of the underlying facts since my first
2 appearance in this matter on January 28th, 2022.

3 I do have to say that I open all of my court
4 appearances, all of my court hearings that way. I always
5 announce that my pronouns are him, him, and his. And I
6 always invite anyone else in the courtroom to identify
7 whether or not they wish to be addressed by other pronouns.

8 I do not believe that that is a basis for
9 disqualification because in California the Court should not
10 discriminate against anyone on the bases of sex or gender or
11 any of those categories which are protected under California
12 law.

13 So I wish to declare that I do not believe that my use
14 of pronouns is a basis that allows me to have any personal
15 bias or prejudice considering any party or any controversy
16 in this matter.

17 With that being said, though, I do invite comments from
18 other counsel.

19 Does anybody wish to provide any additional arguments
20 about whether or not this Court should either informally or
21 should recuse itself, or does anyone wish to file a 170.1
22 motion against the Court?

23 THE COURT: And, also, I will say on the record, too, I
24 do have to mention that California Code of Civil Procedure
25 section 170.3 subsection (b)(1) states a judge who
26 determines himself or herself to be disqualified, after
27 disclosing the bases for his or her disqualification on the
28 record, may ask the parties whether they wish to waive

1 disqualification, except where the basis of the
2 disqualification is provided in paragraph No. 2.

3 I don't believe that paragraph applies, but I just want
4 to make sure that's on the record as well.

5 So Mr. Smith, you wanted to say something?

6 MR. SMITH: On behalf of Mr. **Harken we have no
7 objections to your Honor remaining and are confident that
8 your Honor can be fair and impartial on these issues.

9 Thank you.

10 THE COURT: Mr. Nathan or Mr. Baello?

11 MR. NATHAN: Your Honor, there is no conflict. That's
12 my position.

13 MR. BAELLO: Your Honor, we have no objection on behalf
14 of your Honor handling this matter.

15 THE COURT: Thank you.

16 So the Court believes that it can be fair and impartial
17 in hearing this matter. Do you wish to file a 170.1
18 challenge?

19 MS. HENDERSON: Not at this time, your Honor. And
20 just -- it is Mrs. Henderson.

21 THE COURT: Okay. Mrs. Henderson. I do apologize.
22 Thank you for identifying your pronouns.

23 MS. HENDERSON: It is not my pronoun. My name is
24 Mrs. Henderson.

25 Your Honor, it is just a very controversial issue,
26 so...

27 On the issue of continuing the matter, we would like
28 the opportunity to fully brief it.

1 The challenge we face is that, according to the Court
2 clerk, the next available date is August 2nd. So I have
3 depositions on March 1st, but I'm willing to move those if
4 we could put all of these matters on March 1st with
5 Mr. Bigger's motion to discharge.

6 I think that would be our request.

7 THE COURT: Okay. Off the record.

8 (Discussion held off the record.)

9 THE COURT: We will continue this matter to March 1st.
10 If you wish to file a supplemental briefing, can you do this
11 at least ten court days before?

12 MS. HENDERSON: Yes, your Honor. No problem.

13 THE COURT: If anybody else wishes to file a Briefing,
14 I can have all of your documents here.

15 MR. NATHAN: And the Reply would be due five court days
16 before?

17 THE COURT: Yes. Mrs. Henderson.

18 MS. HENDERSON: Thank you, your Honor.

19 Since this is not the actual trial on the merits of the
20 contempt, may I appear by Zoom to argue on the motion to
21 discharge?

22 THE COURT: Is there a stipulation everyone may appear
23 by Zoom? I don't have everyone here.

24 MS. HENDERSON: It's not the trial; it is just a
25 motion.

26 THE COURT: So what I will do, then, is we will go back
27 on the record. I will allow everyone to appear for the
28 demurrer hearing only by Zoom. If there is a trial in the

1 matter, I am going to expect everyone to come in person.

2 THE COURT: The Court -- having heard from the parties
3 that there is a stipulation, the Court will go ahead and
4 calendar and continue all these matters to March 1st, 2023.

5 The Court will request that you file a -- your
6 supplemental briefing, if you wish, Mrs. Henderson, at least
7 ten court days before, and any Reply Briefs shall be due at
8 least five court dates before. Please make sure that you
9 serve the other parties.

10 And I will see everyone again on March 1st at 1:30 p.m.
11 via Zoom.

12 MS. HENDERSON: Thank you, your Honor.

13 MR. BAELLO: Your Honor, may I just clarify? That's
14 March 1st, 2024?

15 THE COURT: That's right. We are not in last year. So
16 it's March 1st, 2024 via Zoom.

17 MR. NATHAN: I know you said Mr. Bigger doesn't need to
18 be present.

19 THE COURT: That's correct.

20 MR. NATHAN: Can we appear in person if we would like?

21 THE COURT: You can always appear in person. My
22 courtroom is open to the public.

23 MR. BAELLO: Your Honor, one more housekeeping matter,
24 I understand there is a Request For Order, also, in this
25 matter scheduled for February 13th. I believe it involves
26 the Regents in this matter.

27 MS. HENDERSON: Yes. It is the Motion for
28 Reconsideration. I believe -- I don't know if it was this

1 Court, your Honor -- you denied the OSC as to the Regents
2 because of jurisdictional issues, so we are raising that.

3 I can, for the record, state there is not going to be
4 an Opposition. They have stated they're not going to
5 participate at all. I'm not sure if my Office has filed a
6 Notice of Non Opposition yet, but we plan to.

7 Since Mr. Baello has brought it up, may we appear via
8 Zoom for that February 13th hearing.

9 THE COURT: Okay. Whose motion is that?

10 MS HENDERSON: It is Mr. Hudocko's. It is a Motion For
11 Reconsideration **/-Z OSC citation against the Regents.

12 THE COURT: We will be on the record, Madam Court
13 Reporter.

14 THE COURT REPORTER: Yes. We are.

15 THE COURT: So there is a Motion For Reconsideration of
16 this Court's Decision to -- to, I guess, dismiss or
17 discharge the Order to Show Cause against the Regents.

18 MS. HENDERSON: It was just never filed -- yeah.

19 THE COURT: Okay.

20 MS. HENDERSON: You said you didn't have jurisdiction.
21 The answer was "no" when it was filed.

22 THE COURT: Okay.

23 MS. HENDERSON: So we asked the Court to reconsider
24 that Decision.

25 THE COURT: Okay.

26 And let's go off the record.

27 (Discussion held off the record.)

28 THE COURT: Well, we can continue to proceed by then.

1 What I would like to do is have the parties appear by Zoom
2 if you wish to appear.

3 There is no opposition, right?

4 MS. HENDERSON: Correct, your Honor. Giving a notice
5 of no Opposition.

6 THE COURT: Mr. Baello.

7 MR. BAELLO: Your Honor, I bring it up because I want
8 to make sure that it is okay that my client not to appear,
9 either in person or by Zoom, because she has a work
10 conflict.

11 THE COURT: That's fine. Are you going to be appearing
12 on your behalf?

13 MR. BAELLO: Possibly, your Honor.

14 THE COURT: Well, it doesn't concern your client, so,
15 you know, you are certainly welcome to appear.

16 MR. BAELLO: I don't expect to appear.

17 THE COURT: Okay. Thank you.

18 We will go back on the record.

19 The Court will go ahead and confirm the hearing on
20 Mr. Hudacko's Request for Motion for Reconsideration on
21 February 13th, 2024, at 8:30 a.m. For those parties or non
22 parties who wish to appear, you can appear by Zoom. Okay?

23 Is there anything else that we have to discuss today?

24 THE COURT: Okay. Thank you, everyone.

25 I'll see everyone here in a couple of weeks for the
26 February matter on March 1st for the hearing on these cases.

27 MS. HENDERSON: Thank you, your Honor.

28 MR. BAELLO: Thank you, your Honor.

1 THE COURT: We are adjourned.

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1 STATE OF CALIFORNIA)
2 COUNTY OF ALAMEDA) ss.
3)
4)

5 **CERTIFICATE OF REPORTER**
6

7 I, KENDRA M. MORALES, Certified Shorthand Reporter, do
8 hereby certify that I am an Official Court Reporter of the
9 Superior Court of the State of California, and that, as
10 such, I reported the proceedings had in the above-entitled
11 matter at the time and place set forth herein.

12 I further certify that my stenograph notes were
13 thereafter prepared by computer-assisted transcription into
14 typewriting, and that the foregoing pages constitute a full,
15 true and correct transcription of the said notes in the
16 above-entitled proceedings.

17 Dated at Oakland, California, this
18 10th day of February, 2024.
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25 KENDRA M. MORALES, CSR NO. 7259
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